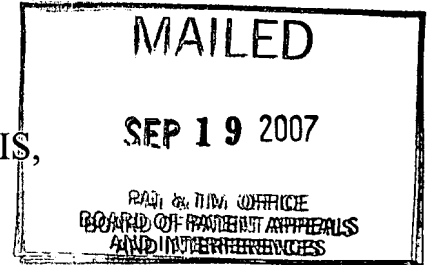


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID LLEWELLYN MALLIS,
AND HARRIS ALLEN REYNOLDS



Application No. 09/977,746

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on September 14, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter requiring attention prior to docketing is identified below:

EXAMINER'S ANSWER

Evidence Relied Upon

The Examiner's Answer mailed August 1, 2006, is defective. The appendix heading "Evidence Relied Upon" (section 8, pg.2) the Examiner indicates "[n]o evidence is relied upon by the examiner in the rejection of the claims under appeal."

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In accordance with MPEP § 1207.02, the “Evidence Relied Upon” (section 8) should include:

(8) Evidence Relied Upon

A listing of evidence relied on (e.g., patents, publications, admitted prior art), and in the case of non-patent references, the relevant page or pages.

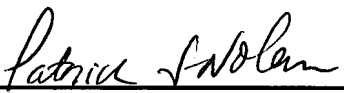
Correction of the record is required, the Examiner may issue a PTOL-90 to identify the evidence relied upon in the rejection of the appealed claim.

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

- 1) issue and mail a PTOL-90 having the missing references listed under the Evidence Relied Upon section, heading (8) of the Examiner’s Answer: and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
PATRICK J. NOLAN
Deputy Chief Appeals Administrator
(571) 272-9797

Application No. 09/977,746

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